

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 07-407(ADM/JJG)

UNITED STATES OF AMERICA,)
)
) Plaintiff,
) **PLEA AGREEMENT AND**
) **SENTENCING STIPULATIONS**
) v.
MATTHEW JAMES BEISE,)
)
) Defendant.

The United States of America and Matthew James Beise (hereinafter referred to as the "defendant") agree to resolve this case on the terms and conditions that follow. This plea agreement binds only the defendant and the United States Attorney's Office for the District of Minnesota. This agreement does not bind any other United States Attorney's Office or any other federal or state agency.

PLEA AGREEMENT

The defendant and the government agree, pursuant to Rule 11, as follows:

1. **Charges**. The defendant will plead guilty to Count 1 of the Superseding Indictment, charging mail fraud, in violation of 18 U.S.C. Section 1341. By separate plea agreement, the defendant will plead guilty to Count 2 of the Superseding Indictment in United States v. Beise (Criminal No. 07-406 (ADM/JJG)) (the "Child Pornography Case"), charging charging transmission of child pornography, in violation of 18 U.S.C. Section 2252(a)(1). If both

plea agreements are accepted, the government will dismiss Counts 2 through 15 of the Superseding Indictment in this case, as well as Counts 1 and 3 of Child Pornography Case, at the time of sentencing.

2. **Factual Basis**. It is stipulated that all the allegations of the Superseding Indictment are true and correct and that the defendant is guilty of all the offenses charged therein. The defendant further stipulates that:

Cross Evangelical Lutheran Church (the "Church") is a non-profit organization with its primary place of operations at 6001 Main Street, in Rockford, Minnesota. The operations of the Church were at all times relevant to this Plea Agreement governed by the "Church Council." The Church Council was comprised of a Board of Trustees, a Board of Elders, a Chairman, a Secretary, and a Treasurer, all of whom were elected by members of the Church congregation and served three-year terms.

From 1998 to 2006, the defendant served as Treasurer for the Church Council. In his capacity as Treasurer, the defendant had control of the books and records of the Church. During that time, the defendant, as Treasurer, had signatory authority on the Church's checking account at Bankwest Bank, checking account number XXX, and arranged for the checking account statements to be delivered to his residence in Rockford, Minnesota, rather than to the Church. Funds in the Church bank account came primarily from

weekly offerings and other donations from Church members. The defendant was authorized to draw on the account to pay recurring Church bills or for other payments authorized by the Church Council. The defendant was not entitled to any salary from the Church, but received a \$300 yearly stipend for expenses.

From on or before January of 2001 to approximately September of 2006, in the State and District of Minnesota, the defendant knowingly and intentionally devised and executed a scheme to defraud and to obtain money from the Church by means of false and fraudulent pretenses and representations.

It was part of the scheme to defraud that the defendant caused funds from the Church account at Bankwest Bank, account number XXX, to be deposited by check or wire transfer into his own personal bank account. It was further part of the scheme to defraud that the defendant caused checks to be drawn on the Church account at Bankwest Bank, account number XXX, to pay his personal expenses.

It was further part of the scheme to defraud that, from in or about 2001 through in or about October 2006, the defendant embezzled at least \$240,000 from the Church account over which he had control as Church Council Treasurer. The defendant used this money for personal expenses including credit card payments, jewelry, season tickets to Minnesota Vikings football games, and expenses related to the construction of a \$600,000 home.

It was further part of the scheme to defraud that, from in or about 2001 through in or about October 2006, the defendant provided to the Church Council false monthly financial reports regarding the nature of expenditures from the Church bank account as well as the condition of the Church's finances. The false financial reports were intended to conceal the fact that the defendant was embezzling Church funds. These false financial reports were periodically mailed to members of the Church in the monthly Church newsletter, "Cross Words," and information from these false financial reports was also incorporated into sections of the newsletter which provided financial information from the Treasurer and/or the Church Council.

It was further part of the scheme to defraud that defendant represented to members of the Church, including the Church pastor and the Chairman of the Church Council, that he was employed as a Certified Public Account with an accounting firm in Bloomington, Minnesota; that he was employed there on a full-time basis; and that he had worked at that job for over eight years. These representations were false. At all times relevant to this Indictment, the defendant was unemployed.

As a result of the defendant's scheme to defraud, the Church has suffered an aggregate loss of more than \$240,000. When the Church first discovered that funds were missing from the Church bank account, Church officials reported it to the Wright County

Sheriff's Department. When defendant was asked by law enforcement about the missing funds, he falsified documents to make it appear that he had transferred to funds to a money market account with HSBC; he then provided these falsified documents an investigator from the Wright County Sheriff's Department in an effort to conceal his embezzlement.

For the purpose of executing the above-described scheme to defraud and to obtain money by false and fraudulent pretenses and representations, the defendant did knowingly cause to be sent and delivered by the United States Postal Service all of the mailings alleged in Counts 1 through 8 of the Superseding Indictment, including but not limited to: the Cross Lutheran Church December 2004 monthly newsletter, mailed on or about November 26, 2004 to TXXXXX EXXXX, to his residence at XXXX XXXXXX Drive SE, Buffalo, MN 55313, aAll in violation of Title 18, United States Code, Section 1341.

For the purpose of executing the above-described scheme to defraud and to obtain money by false and fraudulent pretenses and representations, the defendant knowingly transmitted and caused to be transmitted by means of wire communications in interstate commerce, certain writings, signs, signals, and sounds, for the purpose of executing the above-described scheme, including but not limited to all of the wire transmission alleged in Counts 9 through

11 of the Superseding Indictment, all in violation of Title 18, United States Code, Section 1343.

In order to further and cover up the above-described scheme to defraud, on or about March 16, 2004, in the State and District of Minnesota, the defendant, did knowingly and unlawfully execute and attempt to execute a scheme and artifice to defraud Oakley National Bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to obtain money, funds, and other property owned by and under the custody and control of Oakley National Bank by means of false and fraudulent pretenses, representations and promises, that is, intentionally obtaining a \$500,000 line of credit by representing to Oakley National Bank that he had full-time employment as an accountant, all in violation of Title 18, United States Code, Section 1344.

Finally, the defendant did knowingly and unlawfully engage in monetary transactions affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, which had been derived from specified unlawful activity, that is, bank fraud in as alleged in Count 12 of the Superseding Indictment, as set forth in Counts 13 through 15, all in violation of Title 18, United States Code, Section 1957.

3. **Statutory Penalties.**

The parties agree that Count 1 of the Superseding Indictment carries a maximum statutory penalty of:

- a. a term of imprisonment of 20 years;
- b. a criminal fine of up to \$250,000;
- c. a supervised release term of 3 years; and
- d. a mandatory special assessment of \$100, which is payable to the Clerk of Court prior to sentencing.

4. **Revocation of Supervised Release.** The Defendant understands that, if he were to violate any condition of supervised release, he could be sentenced to an additional term of imprisonment up to the length of the original supervised release term, subject to the statutory maximums set forth in 18 U.S.C. § 3583.

5. **Sentencing Stipulations.** The Defendant will be sentenced in accordance with the Federal Sentencing Act, 18 U.S.C. § 3551, et seq., in light of the United States Supreme Court's decision in United States v. Booker, 125 S. Ct. 738 (2005), which makes the Sentencing Guidelines "effectively advisory," but also requires the Court to consider the Guideline range in determining the appropriate sentence. The parties have agreed upon the following guideline calculations. These factors are binding on the parties but not on the Court. If the Court determines the guideline factors differently, the Defendant understands and agrees that he cannot withdraw his plea.

The parties stipulate to the following guideline calculations for defendant's conviction for mail fraud, as charged in Count 1 of the Superseding Indictment:

- a. Base Offense Level. The parties agree that the base offense level for mail fraud is 7. U.S.S.G. § 2B1.1.
- b. Specific Offense Characteristics. The parties agree that defendant's base offense level should be:
 - (1) increased by 12 levels because the victim's loss amount is between \$200,000 and \$400,000, U.S.S.G. § 2B1.1(b)(1)(G); and
 - (2) increased by 4 levels because the offense involved 50 or more victims, U.S.S.G. § 2G2.2(b)(3).
- c. Chapter Three Adjustments.
 - (1) Acceptance of Responsibility. In exchange for the Defendant's plea, the United States agrees to recommend that the Defendant receive a three (3) level reduction for acceptance of responsibility, provided the Defendant:
 - (a) testifies truthfully at his change of plea;
 - (b) cooperates fully with the government in determining his assets, liabilities, and the disposition of all proceeds of his criminal conduct, including but not limited to providing a sworn statement or testimony at a deposition regarding his financial condition;
 - (c) remains law-abiding; and
 - (d) provides complete and truthful information to the U.S. Probation Office.Whether there will be a reduction for acceptance of responsibility shall be determined by the Court in its discretion.

- (2) Victim-Related/Role in Offense/Obstruction. The parties agree that defendant's offense level should be increased by 2 levels for abuse of a position of trust, U.S.S.G. § 3B1.3. The parties further agree that defendant's offense level should be increased by 2 levels for obstructing the administration of justice, U.S.S.G. § 3C1.1.
- d. Adjusted Offense Level. The resulting total offense level is at 24.
- e. Criminal History Category. Based on information available at this time, the parties believe that the defendant's criminal history category is I. This does not constitute a stipulation, but a belief based on an assessment of the information currently known. Defendant's actual criminal history and related status will be determined by the Court based on the information presented in the Presentence Report and by the parties at the time of sentencing.
- f. Guideline Range. If the adjusted offense level is 24, the Sentencing Guidelines range is 51 to 63 months of imprisonment.
- h. Fine Range. If the adjusted offense level is 24, the fine range is \$7,500 to \$75,000. There is no agreement as to whether a fine will be imposed in this case and, if imposed, the amount of such fine.
- I. Supervised Release. The Sentencing Guidelines specify that if a term of supervised release is ordered, the Court is required to impose a term of supervised release of 2 to 3 years. U.S.S.G. § 5D1.2(a)(2).
- j. Cost of Supervision and Imprisonment. There is no agreement as to the imposition on the Defendant of the costs of his imprisonment or supervised release.
- h. Sentencing Recommendations. If defendant is sentenced consistent with the stipulations of the Plea Agreement in the Child Pornography Case, The government agrees to recommend to the Court that the sentence in this case run concurrent with the

sentence in the Child Pornography Case, U.S.S.G.
§ 5G1.3.

6. **Discretion of the Court.** The foregoing stipulations are binding on the parties, but do not bind the Court. The parties understand that the Sentencing Guidelines are advisory and their application is a matter that falls solely within the Court's discretion. The Court may make its own determination regarding the applicable guideline factors and the applicable criminal history category. The Court may also depart from the applicable guidelines. If the Court determines that the applicable guideline calculations or the defendant's criminal history category is different from that stated above, the parties may not withdraw from this agreement, and the defendant will be sentenced pursuant to the Court's determinations.

7. **Special Assessments.** The Guidelines require payment of a special assessment in the amount of \$100.00 for each felony count of which the defendant is convicted. U.S.S.G. § 5E1.3. The defendant agrees to pay the special assessment prior to sentencing.

8. **Restitution.** The defendant understands and agrees that the Mandatory Victim Restitution Act, 18 U.S.C. §3663A, applies and that the Court is required to order the defendant to make restitution to the victim of his crime, Cross Evangelical Lutheran Church. The defendant and the government agree that the amount of restitution is \$240,000.00.

The defendant represents that he will fully and completely disclose to the United States Attorney's Office the existence and location of any assets in which he has any right, title, or interest. The defendant agrees to assist the United States in identifying, locating, returning, and transferring assets for use in payment of restitution and fines ordered by the Court. The defendant represents that the financial statement provided to the United States Attorney's Office is accurate, truthful and complete.

If requested by the United States, the defendant agrees to submit to a polygraph examination to determine whether he has truthfully disclosed the existence of all of his assets.

9. **Waiver of Rights**. The Defendant understands and agrees that by pleading guilty, he will waive all rights to a trial on the question of his guilt or innocence and as to all issues that he did or could have raised by pretrial motion. Defendant explicitly acknowledges that his plea to the charged offense authorizes the Court to impose any sentence authorized by law, given the admitted facts and any facts found by the court at the sentencing hearing.

The parties acknowledge that both the Defendant and the United States hold a statutory right to appeal the Court's sentence. Defendant nonetheless waives his right to appeal or to contest, directly or indirectly, the Court's sentence, fine or restitution amount, if they are within the range set forth in this Plea Agreement.

10. **Complete Agreement**. The foregoing accurately sets forth the full extent of the Plea Agreement and Sentencing Stipulations in the above-captioned case.

FRANK J. MAGILL, JR.
Acting United States Attorney

BY: Timothy C. Rank
Assistant U.S. Attorney
Attorney ID No. 245392

Dated:

Matthew James Beise
Defendant

Dated:

Bruce Rivers, Esq.
Attorney for Defendant